

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CHARLES ANTHONY ALLEN, SR.

Petitioner,

VS.

DOUGLAS DRETKE, Director  
Texas Department of Criminal Justice,  
Correctional Institutions Division

Respondent.

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NO. 3-04-CV-1757-D


**ORDER**

After conducting a review of the pleadings, files and records in this case, and the December 16, 2005 findings and recommendation of the United States Magistrate Judge in accordance with 28 U.S.C. § 636(b)(1), I am of the opinion that—with one exception that does not affect the outcome of the court's decision\*—the findings and recommendation of the magistrate judge are correct and they are hereby accepted as the findings of the court.

Petitioner's December 12, 2005 motion to vacate judgment is therefore denied.

**SO ORDERED.**

January 4, 2006.

  
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SIDNEY A. FITZWATER  
UNITED STATES DISTRICT JUDGE

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\*The magistrate judge assumed *arguendo* that the court has jurisdiction to entertain petitioner's motion under Fed. R. Civ. P. 60(b). Considering the grounds on which petitioner relies to obtain Rule 60(b)(1) relief, the court holds that it has jurisdiction to consider his motion, and it denies the motion on the merits.